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KELLOGG, HUBER, HANSEN, TODD & EVANS, P.L.L.C.

1301 K STREET, N.W.

SUITE 1000 WEST

WASHINGTON, D.C. 20005-3317

(202) 326-7900

MICHAEL K. KELLOGG
PETER W. HUBER
MARK C. HANSEN
K. CHRIS TODD
MARK L. EVANS
JEFFREY A. LAMKEN
AUSTIN C. SCHLICK

FACSIMILE
(202) 326-7999

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JUN 23 1997

June 23, 1997

Federal Communications Commission
Office of Secretary

VIA HAND DELIVERY

William F. Caton
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: In the Matter of Toll Free Service Access Codes
CC Docket No. 95-155

Dear Mr. Caton:

Enclosed for filing please find an original and ten copies of the Joint Reply Comments of the Bell Operating Companies and Bellcore in reference to the above-captioned matter.

Please date-stamp the extra copy of the Joint Reply Comments and return it to the individual filing this material. Thank you for your assistance with this matter.

Yours sincerely,


Michael K. Kellogg

Enclosures

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**Before the
Federal Communications Commission
Washington, D.C. 20554**

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JUN 23 1997

**Federal Communications Commission
Office of Secretary**

In the Matter of)	
)	
Toll Free Service Access Codes)	CC Docket No. 95-155
)	
Petition to Modify 888 Number Allocation Plan filed by LCI International, Inc.)	NSD File No. 97-10
)	
Petition to Modify 888 Number Allocation Plan filed by UniDial, Inc.)	NSD File No. 97-15
)	
Petition to Modify 888 Number Allocation Plan filed by Consolidated Communication Telecom Services Inc.)	NSD File No. 97-16
)	

**JOINT REPLY COMMENTS OF THE BELL
OPERATING COMPANIES AND BELLCORE**

In their initial comments in this proceeding, the Bell operating companies and Bellcore urged the Commission to allow Data Services Management Inc. ("DSMI") to continue serving as the overseer of the SMS/800 database. The Bell companies and Bellcore also advocated that existing regulation of the SMS/800 database remain unchanged. Only two other parties addressed these issues -- AT&T and Sprint -- and both supported these proposals. The Commission should accordingly adopt them.

I. DSMT SHOULD CONTINUE TO PLAY ITS EXISTING ROLE

As both AT&T and Sprint recognize, it makes no sense to mandate the immediate replacement of DSMT when Bellcore and DSMT are in the process of being sold to a neutral third party. Both AT&T and Sprint note that DSMT has never exhibited any lack of impartiality in overseeing the database. According to AT&T, "the 800 SMS database administration is currently functioning in a problem-free manner" and "AT&T knows of no instances of discriminatory conduct by DSMT." Comments of AT&T Corp. at 4 (filed May 22, 1997) ("AT&T Comments"). Likewise, Sprint emphasizes "that DSMT's performance to date has been satisfactory." Comments of Sprint Communications Company, L.P. at 2 (filed May 22, 1997) ("Sprint Comments").

Both companies also stress that the immediate replacement of DSMT would have a negative impact on the industry: It would consume significant "time, training and expense," Sprint Comments at 2, at a time when the industry is faced with "other crucial number administration tasks . . . including setting up the seven regional databases for local number portability," AT&T Comments at 4. Both companies thus suggest that DSMT be allowed to continue to play its existing role. AT&T Comments at 4 (stating there is "no imminent need to displace DSMT as the current 800 database administrator"); Sprint Comments at 2 ("Sprint has no objection to allowing DSMT to continue to serve as the toll free database administrator").

Since all sections of the industry apparently agree that the immediate replacement of DSMI would be both unnecessary and unwise, the Bell operating companies and Bellcore respectfully urge the Commission to reconsider its tentative conclusion and refrain from replacing DSMI.¹

While supporting the retention of DSMI, Sprint suggests that the SMS/800 Management Team ("SMT") -- which consists of one representative from each RBOC -- should be replaced by an industry-wide group. Sprint Comments at 3-4. But an industry-wide group -- the SMS/800 Number Administration Committee ("SNAC") -- is already responsible for establishing guidelines for toll free number administration. The SMT simply implements these guidelines, and Sprint itself can find no fault with the way the SMS/800 database has been managed. Sprint Comments at 2. More importantly, a critical function of the SMS/800 management team is to file the tariff governing SMS/800 database access. As discussed below, Sprint itself acknowledges that SMS/800 database access should remain a tariffed service, and a tariff should be filed by the parties that provide the service (i.e., the RBOCs), not by the parties that purchase it (i.e., Responsible Organizations like the 800 carriers).

¹Bellcore and the Bell companies also agree with AT&T that DSMI and any future database administrator should be allowed to subcontract work to any entities regardless of affiliation. See AT&T Comments at 7. This will promote competition by allowing the administrator to obtain services in the most efficient manner possible.

While the Bell companies and Bellcore agree with AT&T's conclusion that "there is no imminent need to displace DSMI as the current 800 database administrator," they oppose AT&T's proposal that the North American Numbering Council ("NANC") develop procedures for selecting future SMS/800 database administrators. AT&T Comments at 4. The selection of the SMS/800 database administrator is currently performed by the SMT, which has demonstrated its ability to select a database overseer that will treat all sectors of the industry fairly and equally. AT&T itself concedes it knows of no examples of discriminatory conduct by DSMI, the existing database overseer.² The Commission should thus grant the SMT the discretion to select the database administrator. And since the SMT also administers the SMS/800 database access tariff, the Commission will be able to police against possible discrimination in administration of the database through its normal tariffing procedures.

The Bell companies and Bellcore also support AT&T's and Sprint's conclusion that the SMS/800 database administrator should not necessarily be the same entity that is chosen as the North American Numbering Plan ("NANP") or local number portability administrator. As both AT&T (at 5) and Sprint (at 2-3) indicate, administration of the

²If the Commission does task the NANC with establishing procedures for selecting DSMI's successor, those procedures should focus on the unique technical expertise required to run the SMS/800 database. As Sprint points out, "[b]ecause proper administration of toll free numbers involves specialized knowledge and familiarity with the toll free marketplace, experience and technical expertise are entitled to substantial weight." Sprint Comments at 3.

SMS/800 database involves a set of unique requirements and systems that bear scant relation to other number administration systems. For that reason, the selection of the number administrator for the SMS/800 database system should proceed independently from the selection of the NANP and local number portability administrators.

II. EXISTING REGULATION SHOULD REMAIN UNCHANGED AND A MANDATORY LICENSING REQUIREMENT WOULD BE UNLAWFUL

The Commission should also refrain from altering existing regulation of the SMS/800 database. As AT&T suggests, SMS/800 service should continue to be offered pursuant to tariff, AT&T Comments at 5-6, and costs should be recouped through fees levied on the actual users of the system (i.e., the Responsible Organizations that actually reserve toll free numbers), id. at 8. See also Sprint Comments at 3 (acknowledging that there should be an SMS tariff). The Bell operating companies and Bellcore advocated the same proposals in their initial comments, and they continue to support them here.


The Bell operating companies and Bellcore do oppose, however, AT&T's suggestion that Bellcore be required to license the software necessary to run the SMS/800 database and the 800 Number Administration and Service Center. See AT&T Comments at 7-8. As the Bell operating companies and Bellcore indicated in their opening comments, any mandatory licensing requirement would effectively condemn a portion of their rights in the proprietary SMS/800 database software. Since section 251(e) of the Communications Act provides absolutely no support for such a mandatory licensing requirement, the Commission should, indeed must, reject AT&T's proposal.

See, e.g., Bell Atlantic Tel. Cos. v. FCC, 24 F.3d 1441, 1447 (D.C. Cir. 1994) (the Commission may not take property unless the Communications Act “expressly authorize[s]” the Commission to do so).

Conclusion

The Commission should heed the unified voice of the industry and not replace DSMI or any of the other SMS/800 database subcontractors. The Commission should also leave existing SMS/800 regulation unchanged. Finally, the Commission should refrain from imposing a mandatory licensing requirement.

Respectfully submitted,


Michael K. Kellogg
Kevin J. Cameron
KELLOGG, HUBER, HANSEN, TODD
& EVANS
1301 K Street, N.W.
Suite 1000 West
Washington, D.C. 20005
(202) 326-7900

Counsel for the Bell Operating
Companies and Bellcore

June 23, 1997

CERTIFICATE OF SERVICE

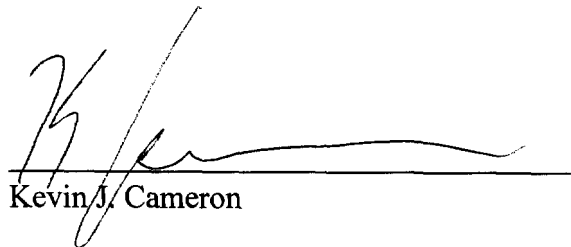
I hereby certify that on this 23rd day of June, 1997, I caused copies of the foregoing Joint Reply Comments of the Bell Operating Companies and Bellcore to be served upon the following parties by first-class mail, postage prepaid.

Mark C. Rosenblum
Peter H. Jacoby
Judy Sello
AT&T Corp.
Room 3245I1
295 North Maple Avenue
Basking Ridge, NJ 07920

Leon M. Kestenbaum
Norina T. Moy
Sprint Communications Company, L.P.
1850 M Street, N.W.
Suite 1110
Washington, D.C. 20036

Mark D. Olson
National Association of
Telecommunications End-Users
P. O. Box 268
Covina, CA 91723

Nathan C. Hart
Tellnet Communications, Inc.
7611 Ehrlich Road
Tampa, FL 33625


Kevin J. Cameron